

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WILMINGTON DIVISION

IN RE:

**FILED**

CASE NO.:

H. T. RESTAURANTS, INC.

SEP 25 2000

97-01898-8-JRL

M.R.G.R.E., INC.,

PEGGY B. DEANS, CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF N.C.

98-00506-8-JRL

M.R.G.E.Q., INC.,

98-00508-8-JRL

MULTI RESTAURANT GROUP, LTD.

98-00507-8-JRL

Debtors

(Chapter 7)

Joseph N. Callaway, Trustee in Bankruptcy )  
for H. T. Restaurants, Inc., M.R.G.R.E., Inc., )  
M.R.G.E.Q., Inc., and Multi Restaurant )  
Group, Ltd., )

Plaintiff, )

vs. )

ADVERSARY PROCEEDING NO.:

Restaurant Combinations, Inc., )  
Restaurant Genesis Corporation, )  
AQMI Corporation, Victor Robert, )  
Phillip Allen, Frank Amodeo, and, )  
Jerry E. Beavers, )

L-00-00169-8-JRL

Defendants. )

PLAINTIFF'S MOTION TO DISMISS COMPLAINT PURSUANT  
TO RULE 7041

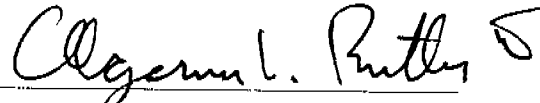
NOW COMES the trustee and plaintiff in the above-referenced action, by and through counsel, and respectfully requests that the Court enter an Order dismissing the Complaint against the defendants in this action pursuant to Federal Rule of Bankruptcy Procedure 7041 and Federal Rule of Civil Procedure 41(a)(2) without prejudice to the trustee's rights to bring the action at a later date if he

deems it appropriate to do so and granting to him such other and further relief as to the Court may seem just and proper.

Dated:

9/21/00

BUTLER & BUTLER

A handwritten signature in cursive script, reading "Algernon L. Butler, III", with a horizontal line underneath it.

Algernon L. Butler, III  
Attorneys for Trustee  
N.C. State Bar No. 20881  
P.O. Box 38  
Wilmington, NC 28402-0038  
(910) 762-1908

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**NOTICE OF MOTION**

**NOTICE IS HEREBY GIVEN** of the Plaintiff's Motion to Dismiss Complaint Pursuant to Rule 7041 filed simultaneously herewith in the above captioned case, a copy of which motion is attached hereto; and

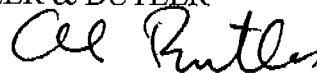
**NOTICE IS FURTHER GIVEN** that this motion may be allowed provided no response and request for a hearing is made by the parties in interest in writing to the Clerk of this Court at Post Office Box 2807, Wilson, North Carolina 27895 within TWENTY (20) DAYS from the date of this notice; and

**NOTICE IS FURTHER GIVEN** that if a response and a request for a hearing is filed by a party in interest named herein, in writing within the time indicated, a hearing will be conducted on the motion and response at a date and time to be later set by the Court. If no response for a hearing is timely filed, the Court may rule on the motion and response thereto *ex parte* without further notice. Any party requesting a hearing shall appear at the hearing in support of such an objection or may be assessed with costs.

Dated:

BUTLER & BUTLER

9/22/00



Algernon L. Butler, III  
Attorneys for Trustee  
NC State Bar No. 20881  
PO Box 38  
Wilmington, NC 28402  
(910) 762-1908

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury that he is over eighteen (18) years of age, and that the

PLAINTIFF'S MOTION TO DISMISS COMPLAINT PURSUANT  
TO RULE 7041 AND NOTICE THEREOF

in the above captioned case was this day served upon the below named persons by mailing, postage prepaid, first class mail, of a copy of such instrument to such persons, parties and/or counsel at the address shown below:

Mr. Frank Amodeo  
Reg No.: 48883-019  
FPC Pensacola Dorm B  
110 Ruby Avenue  
Pensacola, FL 32509-5127

Mr. Phillip Allen  
124 Wisteria Drive  
Longwood, FL 32779

Mr. Victor Robert  
8479 Southern Park Drive  
Tallahassee, FL 32310

Dated:

9/22/00

BUTLER & BUTLER



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Attorneys for Trustee  
NC State Bar No. 20881  
PO Box 38  
Wilmington, NC 28402  
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